

1 EILEEN M. DECKER
United States Attorney
2 LAWRENCE S. MIDDLETON
Assistant United States Attorney
3 Chief, Criminal Division
GEORGE E. Pence (Cal. Bar No. 257595)
4 A. CARLEY PALMER (Cal. Bar No. 307303)
Assistant United States Attorneys
5 General Crimes Section
1200 United States Courthouse
6 312 North Spring Street
Los Angeles, California 90012
7 Telephone: (213) 894-2253/0282
Facsimile: (213) 894-0141
8 E-mail: george.pence@usdoj.gov
carley.palmer@usdoj.gov

9
10 Attorneys for Plaintiff
UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

No. CR 15-595-RGK

14 Plaintiff,

GOVERNMENT'S NOTICE OF INTENTION
TO SUBMIT EVIDENCE PURSUANT TO
FED. R. EVID. 902(11) AND 18
U.S.C. § 3505

15 v.

16 ANGELO HARPER JR.,

Trial Date: July 19, 2016
Trial Time: 9:00 a.m.
Location: Courtroom of the
Hon. R. GARY
KLAUSNER

17 Defendant.

18

20

21

22

23

24

25

26

27

28

1 PLEASE TAKE NOTICE THAT plaintiff United States of America, by
2 and through its counsel of record, the United States Attorney for the
3 Central District of California and Assistant United States Attorneys
4 George E. Pence and A. Carley Palmer, intends to offer into evidence
5 at trial certain domestic and foreign records of regularly conducted
6 business activities (i.e., business records) of Kik Interactive, Inc.
7 ("Kik") and Time Warner Cable Inc. ("TWC").

8 Specifically, pursuant to 18 U.S.C. § 3505, the government
9 hereby submits Kik's business records (Exhibits 1 and 3), with their
10 attached declarations of custodians of records for Kik (Exhibits 2
11 and 4). The government previously produced these records to defendant
12 and gave notice of its intent to offer them at trial. These records
13 are relevant to prove the IP address used by the Kik Messenger
14 account CM8JIAW4 to advertise child pornography in the Kik
15 #NEPILOVERS chatroom (the "Target IP"). An "IP address" is a code
16 that identifies a computer network or a particular computer or other
17 device on a network, consisting of four numbers separated by periods.

18 In addition, pursuant to Federal Rule of Evidence 902(11), the
19 government hereby submits TWC's business records (Exhibits 5 and 7),
20 accompanied by their attached declarations of custodian of records
21 (Exhibits 6 and 8). The government previously produced these records
22 to defendant and gave notice of its intent to offer them at trial.
23 These records are relevant to establish that the physical address
24 associated with the Target IP was defendant's residence.

25 The government submits that, in light of the Supreme Court's
26 decision in *Crawford v. Washington*, 124 S. Ct. 1354 (2004), the Court
27 may review the declarations under Federal Rule of Evidence 104(a) to
28 make the threshold determination of admissibility under Rule 902(11).

and section 3505, but the declarations should not themselves be admitted into evidence.

Finally, the government respectfully requests leave to supplement this notice as it may become necessary during the course of the trial in this matter. The government also requests that the Court make the determination of admissibility in advance of the commencement of trial to facilitate the compulsion of the appearance of custodians of records, if necessary.

21
22
23
24
25
26
27
28